

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

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UNITED STATES OF AMERICA,
Plaintiff,

v.

THOMAS J. LERTOLA,
Defendant.

Civil No. 2:06-cv-180

COMPLAINT

David V. Kirby, United States Attorney for the District of Vermont, on behalf of the United States of America, hereby complains as follows:

JURISDICTION AND VENUE

1. This civil action is brought by the United States to recover damages and civil penalties under the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA"), 12 U.S.C. §1833a. This Court has jurisdiction over the subject matter of this action pursuant to 12 U.S.C. § 1833a (d) and 28 U.S.C. §§ 1331, 1345.

2. Venue is in the District of Vermont because Thomas J. Lertola ("Lertola") resides in Vermont and the transactions giving rise to this Complaint occurred here. 28 U.S.C. § 1391(b).

PARTIES

3. The plaintiff, United States of America, is a sovereign entity
4. At all times relevant to this complaint, Lertola resided in Rutland, Vermont. Lertola

was the President of Lertola's Inc., doing business as Lertola's Toyota.

LEGAL BACKGROUND

5. The United States seeks redress under the the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA"), 12 U.S.C. § 1833a, for civil penalties resulting from criminal bank fraud within the meaning of 18 U.S.C § 1341 and 1343.

FACTUAL ALLEGATIONS

6. Thomas J. Lertola ("Lertola") engaged in a check kiting scheme between August of 2000 and March of 2001 involving the Chittenden Bank and Charter One Bank.

7. The scheme began in August of 2000 and grew in scope until March of 2001.

8. At least 34 checks drawn on Charter One Bank were written by Lertola and deposited into an account at the Chittenden Bank. Similarly, at least 34 checks drawn by Lertola on the Chittenden Bank were deposited into an account maintained at Charter One Bank. All of the deposits into and corresponding checks written from the Chittenden account occurred the same day or within a day of each other.

9. By depositing checks from the Charter One Bank account into the Chittenden Bank account when there were insufficient funds in the Charter One Bank account to cover those checks, Lertola misrepresented that there were sufficient funds in the Charter One Bank account to cover the checks deposited into the Chittenden account. Similarly, depositing checks from the Chittenden Bank account into the Charter One Bank account when there were insufficient funds in the Chittenden Bank account to cover those checks, Lertola misrepresented that there were sufficient funds in the Chittenden Bank account to cover the checks deposited into the Charter One account.

10. Lertola's misrepresentations were intentional and knowing.

CAUSE OF ACTION -FIRREA

11. The United States repeats and realleges the allegations of paragraphs 1 through 10.
12. Lertola violated 18 U.S.C. § 1341 and 1343.
13. Pursuant to 12 V.S.A. § 1833a, Lertola is liable for a civil penalty in an amount to be assessed by the court.

RELIEF REQUESTED

WHEREFORE, the United States requests that the Court award judgment on its complaint and impose civil penalties against the defendant. 12 U.S.C. § 1833a.

Dated at Burlington, in the District of Vermont, this 15th day of Sept, 2006

Respectfully submitted,

UNITED STATES OF AMERICA

THOMAS D. ANDERSON

United States Attorney

By:



NANCY J. CRESWELL

Assistant United States Attorney

U.S. Attorney's Office

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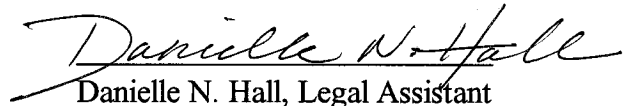
Civil No. 2:06-cv-180

CERTIFICATE OF SERVICE

I, Danielle N. Hall, Legal Assistant for the United States Attorney's Office for the District of Vermont, do hereby certify that on September 15, 2006 I filed the **Complaint, Settlement Agreement and Stipulation for Entry of Judgment, and Consent Judgment** with the Clerk of the Court, and I hereby certify that on September 15, 2006, I have mailed by United States Postal Service, the document to:

James P. Carroll, Esq.
135 North Main Street, Suite 10
Rutland, VT 05701

Dated at Burlington, in the District of Vermont this 15th day of September, 2006.



Danielle N. Hall, Legal Assistant
U.S. Attorney's Office
11 Elmwood Avenue
Burlington, VT 05401